IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7190 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JETHABHAI M ADHVARYU

Versus

STATE OF GUJARAT

Appearance:

Shri HA RAICHURA for Petitioner No. 1

Shri K.P. Raval, ASSTT GOVERNMENT PLEADER for Respondents No. 1-4

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 12/10/2001

ORAL JUDGEMENT

The present petition is filed for the relief that the communication dated 18.2.1988 issued by respondent no.2, produced at Annexure 'D' be quashed and set aside

being violative of Articles 14 & 16 of the Constitution of India and further to issue appropriate directions to release LTC of the petitioner for the block year 1984-87.

2. Today, when the matter is called out, learned advocate for the petitioner is not present. On perusal of papers, it is found that the learned advocate for the petitioner has raised the following questions in para 3 of the petition:

"3. .. ..

(a) Can the government discriminate in the matter of Leave Travel Concessions to similarly situated employees.

(b) Whether the G.R. at Annexure 'C', 'E' and 'F' show per se discrimination between otherwise similarly situated employees.

(c) Whether the refusal of the Govt. not to pay Leave Travel Concession for the block of 1984-- 87 to employees who retired during the period of 1984 to 31.12.87 is per se arbitrary and violative of Articles 14 & 16."

3. It is further noticed from perusal of the memo of petition that the petitioner retired as a Head Clerk (Statistics) under the District education Office on 31.12.1986 after completing service of 32 years. It is the case of the petitioner that he did not enjoy Leave Travel Concession (hereinafter referred to as "LTC") of Rs.2436/-, and he exercised proper alternatives within due time to receive the LTC in cash. The petitioner made an application for encashment of LTC for the block year 1984-- 87, which was accepted by the District Education Officer, respondent no.2 herein on 29.8.1988.

4. The Treasury Officer was directed to pay cash amount of LTC to the petitioner. It is further stated by the petitioner in para 6 of the petition that he was given token no.453 to receive LTC amount. The Treasury Officer, respondent no.4 herein declined to make payment by a letter dated 7.9.1988, a copy of which is at Annexure 'B' to the petition. Said letter, Annexure 'B' mentions that according to Resolution of the Finance Department of the Government bearing No.MSBH/ 1087/ 4535/ JA dated 9.12.1987, the employees who have retired prior to 31.12.1987 are not entitled to receive this benefit. The challenge to the said letter is on the ground that in the Govt. Resolution there is no clause to the effect that the employees who retired prior to 31.12.1987 are

not to be paid the benefit of LTC encashment. The petitioner himself has reproduced clause 6 of the Govt. Resolution dated 9.12.1987, which reads as under:

"The amount of LTC shall be paid in cash to employees, who retire between the period of 31.12.87 to 31.7.88 shall be paid before 31.7.88."

5. The petitioner has also based his claim on comparison of the other Govt. Resolution dated 27.6.1984 for the period, a copy of which is produced at Annexure 'E'. The petitioner has also made a bald statement that the LTC for the block year 1984-- 87 is paid to the employees who have retired prior to 30.9.84. The petitioner has not given any details regarding the same. The petitioner has thereafter stated that the amount of LTC for the block year 1988-- 91 is made payable even to those employees who have retired before 1.5.1991. In absence of the details of the employee who retired prior to 30.9.1984 and was paid LTC benefit for the block year 1984-- 87, and the petitioner cannot claim the benefit similar to a person whose details are not placed. In the alternative, asuming that by mistake, teh Government has paid such benefit to any person, the Court cannot direct the Government to repeat that mistake.

5. The petitioner is not able to make any case much less a ground on which the relief sought for can be granted. The petition fails. Dismissed accordingly. Rule is discharged. No order as to costs.

(Ravi R. Tripathi, J.)

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